



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 39 OF 2024

1. Jugalkishor Tikamchand Gilda,
aged about 63 years,
Occ. Advocate
 2. Jugalkishor Tikamchand Gilda,
(HUF) aged about 63 years,
Occ. Advocate
R/o 109, Gogrpeth, Dharampeth,
Nagpur.
- ... Applicants

Versus

1. Gopal Harikisan Chandak,
Aged about 42 years, Occ. Builder,
R/o Arvi, Police Station Arvi.
2. Mohan Harikisan Chandak,
aged about 38 years, Occ. Builder,
R/o Arvi, Police Station Arvi.
3. Shardadevi Harikisan Chandak,
aged about 60 years, Occ. Builder,
4. Ganesh Vithaldas Chandak,
aged about 58 years, Occ. Builder,
All R/o. Arvi. Dist. Wardha,
Police Station Arvi.
5. Ramdeobaba Builders and Developers
Pvt. Ltd. Through
Sau Shilpa Gopal Chandak,
R/o Arvi, District Wardha,
Police Station Arvi.
6. Sau. Sujata Mohan Chandak,
Aged 35 years, Occu. Business,
R/o Arvi, District Wardha,
Police Station Arvi.

7. State of Maharashtra,
Through Superintendent of Police,
Economic Offence Wing, Jalgaon,
P.S. Jalgaon. ... Non-applicants

...

Mr. Jugalkishor Tikamchand Gilda, applicant appearing party-in-person.

Mr. Narendra Dhoot, Advocate a/w Mr. Parikshit S. Mantri, Advocate for Respondent Nos. 1 to 3, 5 and 6.

Mr. M.S. Karad and Mr. T.A. Pradhan, Advocate for Respondent No. 4

Mr. S. A. Gaikwad, APP for Respondent No. 7-State.

...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 07.11.2025

PRONOUNCED ON : 14.11.2025

JUDGMENT :-

1. Instant revision takes exception to the order dated 23.10.2023 passed by learned I/c Additional Sessions Judge, Jalgaon in Criminal Misc. Application No. 308/2023 moved by invoking Section 156(3) of Cr.P.C. for directions to register F.I.R. against non applicants-present respondents for offence under Sections 406, 409, 420 r/w 34 of IPC and offence under Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 [for short, "MPID Act"].

The learned I/c Additional Sessions Judge, Jalgaon, after hearing the submissions, held that, in view of definition of "Financial Establishments" provided under Section 2(d) of the MPID Act, *prima*

facie it appeared that non-applicant no.5 is not financial establishment and that, amounts paid to them cannot be termed as “deposits” in view of definition provided under Section 2(c) of the said Act. That, transaction is sale transaction. On above counts, learned court was pleased to observe that the application was not maintainable before that court and it further observed that, if at all applicant felt deceived, as the transactions had occurred under jurisdiction of Jalgaon District, i.e. at Muktainagar, he is at liberty to move the Magistrate of said place. With such observations, above application stood rejected.

Precisely above order is questioned by way of instant criminal revision application.

2. Heard. Learned counsel, who is a practicing Advocate, has addressed himself as a victim and would point out that, respondents herein are Directors of Private Limited Company established under the Companies Act, i.e. company named and styled as Ramdevbaba Builders and Developers Pvt. Ltd. He would point out that, one of the Directors also happens to be his relative. He further pointed out that, respondents approached him and appraised him about a scheme being floated for attracting investments and deposits with assurance

of giving double returns within a period of approximately 28 to 29 months and it was also impressed upon applicant that, several persons have already invested and deposited various amounts. That, believing such relative, money was invested by way of deposits. The said payments were made by way of cheques and there are bank statements. He further emphatically submitted that except above transaction, there was no other transaction of any form with respondents and therefore, the bank entries pertain only and only to the alleged assurance of securing deposits by assuring huge returns. He would point out that, it is also learnt from reliable sources that, an amount of over rupees nine corers has been secured by way deposits by the respondents. That, as an abundant precaution, for security purpose, sale deeds were got executed. However, no returns as assured were given in spite of taking huge deposits by way of investments. According to him, clearly it is an act of cheating and criminal breach of trust also. That, fraud has been played upon applicant, who had invested his hard earned money and therefore, for above act of respondents, criminal prosecution was intended to be launched and accordingly, in that direction, when there was no response from police department, revisionist was constrained to knock the doors of the court of law by invoking Section 156(3) of Cr.P.C.

3. He would also take this Court through the provisions of the MPID Act, its aim and object and also invited attention of this Court to Sections 2(c) and 2(d) pertaining to “Financial Establishment” and “deposit”. He would add that, here, there is no dispute that deposits were attracted and amount has been received. That, financial transaction being completed by respondents in the name of Private Limited Company, even the requirement of Section 2(c) gets squarely attracted and as such, the essential ingredients not only under the provisions of the MPID Act, but also the Penal Code, are very much existing in the complaint and as such, there was no reason on the part of learned trial court to refuse exercise of power under Section 156(3) Cr.P.C..

4. Learned counsel seeks reliance on the following rulings :

- a. ***Lalita Kumari v. Government of Uttar Pradesh and others*** (2014) 2 SCC 1.
- b. ***M/s. Fairwinds Asset Menagers Ltd. v. State of Maharashtra and another*** [Criminal Writ Petition No. 779 of 2016 decided by the Division Bench of this Court at its Principal Seat on 25.08.2016].
- c. ***Ajay s/o Murlidharji Laddha v. State of Maharashtra and another*** [Criminal Writ Petition No. 108 of 2021 decided on 21.10.2022 by the Division Bench of this Court at Nagpur Bench].

5. In answer to above, learned counsel representing respondent nos. 1 to 3, 5 and 6 canvassed in favour of and supported the impugned order by pointing out that, revisionist utterly failed to make out a case for exercise of power under Section 156(3) Cr.P.C.. Learned counsel took this Court through paragraphs 2, 3, 5, 6, 10 and 13 and would submit that the averments made in the petition clearly show that whatever transaction took place, was in relation to land. There was no floating of any scheme for attracting any investments or deposits, as is tried to be claimed, and even there is nothing in black and white regarding any such scheme. He pointed out that, even there is no supportive documentary evidence regarding so called investments or deposits as, not a single receipt towards deposit has been placed. He further pointed out that none of the persons, who are named to have also invested, have also tendered any affidavit in support of their contentions.

6. Learned counsel also took this Court through the definition of “Financial Establishment” as well as “deposit” provided in the MPID Act and would submit that there is no iota of evidence or material so as to hold respondent no.6 to be a Private Limited Company indulging in any financial activity, and there being no documentary evidence about money changing hands between revisionist and

respondents, even as per definition under the MPID Act, it cannot be said that there were deposits so as to attract provisions of the said Act and to this extent, he supports the observations of learned trial court. Finally he questioned maintainability of the complaint before the Court of Jalgaon as, whatever instances are quoted, have allegedly taken place in Jalgaon and as such, issue of jurisdiction is also raised while supporting the impugned order. Learned counsel for respondent no.4 also adopted the above submissions and would also urge to dismiss the revision.

7. In support of above contentions, learned counsel for the respondents placed reliance on the following rulings :

- a. ***Mala Choudhary and another v. State of Telangana and another*** [Cri. Appeal arising out of SLP (Cri.) No. 10748 of 2023 decided by the Hon'ble Supreme Court on 18.07.2025]
- b. ***Rikhab Birani and another v. State of Uttar Pradesh and another*** [Cri. Appeal arising out of SLP (Cri.) No. 8592 of 2024 decided by the Hon'ble Supreme Court on 16.04.2025]
- c. ***Delhi Race Club (1940) Ltd. And others v. State of Uttar Pradesh and another*** [Cri.Appeal No. 3114 of 2024 decided by the Hon'ble Supreme Court on 23.08.2024]
- d. ***Anukul Singh v. State of Uttar Pradesh and another*** [Criminal Appeal No. 4250 of 2025 decided by the Hon'ble Supreme Court on 24.09.2025]

- e. ***Suresh C. Singal and others v. State of Gujarat and others*** [Criminal Appeal No. 3862 of 2024 decided by the Hon'ble Supreme Court on 16.04.2025]
- f. ***Rajesh Khakar and others v. The State of Maharashtra and others*** [Writ Petition No. 430 of 2025 decided by the Division Bench of this Court at its Principal Seat on 09.05.2025]
- g. ***Tejas Lalit Soni v. State of Maharashtra and another*** [ABA No. 160 of 2025 decided by this Court at its Principal Seat on 09.06.2025]

8. Present revisionist seems to have invoked provisions under Section 156(3) of Cr.P.C. seeking registration of crime and investigation based on his allegations against present respondents. There is no dispute that, after filing report with concerned police station, copy has been forwarded to Superintendent of Police and when still there was no response, Misc. Cri. Application No. 308 of 2023 was pressed into service before learned I/c Additional Sessions Judge, Jalgaon, urging to direct police to register crime for offence under Section 406, 409, 420 r/w 34 of IPC.

9. Learned counsel for revisionist would strenuously submit that, firstly, police authorities slept over his complaint for a period of over two months and did not act and even after approaching S.P., as there was no response, revisionist was constrained to file above application.

He took this Court through the complaint and its sum and substance is that, he himself is a practicing advocate, a complainant as well as a victim. He elaborated that, respondent nos. 1 to 4 and 6 are Directors of respondent no.5, a private limited company registered under the Companies Act. According to him, he has a distant relative, namely, Nandkishor Bajaj who resides at Bhatkuli, District Amravati and elder sister of said Bajaj, namely, Shantabai Rathi, happens to be wife of his maternal uncle, and as such, they happen to be in relation. He further pointed out that, said Shantabai was, since inception, also acquainted with present respondent Shardadevi Chandak, who had approached applicant and appraised them about incorporation of respondent no.5 company and she further allegedly told that respondent no.5 company accepts deposits under a scheme and gives handsome returns i.e. double the amount invested. Accordingly, applicant and his family members deposited money with the hope of returning interest regularly. It is his specific submission that said amount was handed over to respondents with no other intention or no other purpose, except to earn interest as assured. That, the respondents were custodians of the amount time to time invested by the applicant as well as his other family members.

10. He further pointed out that, he was oblivious of the main activities of the respondents, but in April-May 2009, Gopal Chandak, Mohal Chandak along with Nandkishhor Bajaj approached him with their spouses and also informed that, various lands are purchased in various cities by respondent no.5 company for erecting housing complex/township and even lands are purchased and got converted into NA (non agricultural) by forming plots which fetch high rates. That, said properties were purchased in Burhanpur, Harda, Multai, Ratlam in the State of Madhya Pradesh and the said properties are purchased from the deposits which were attracted from applicant, his family members and others with assurance to give double returns within a period of 28 months. There was assurance of security and safety of the amount invested. There was also assurance by respondents to give landed property by way of security for the amount invested. He pointed out that, believing and trusting respondents, various amounts were given at various times by way of **cheques** in the name of non applicant. Even cash amount of Rs.3,75,00,000/- was invested in the scheme with the hope of getting double returns i.e. in the year 2011-2012.

11. He further pointed out that, as he was in financial need, he demanded the invested amount but initially there was no response, however when he pressurized respondent, merely an amount of Rs.17,50,000/- was repaid to him. As regards to rest of the amount, it is submitted that, false assurances were given about investments being made in various projects and he was assured to receive good returns on completion of the same projects. According to him, when inquiry was made with regard to the plots which were given by way of security, it was revealed that said plots were already sold to other persons and third party interest has already been created and as such, fraud and deception has been played. That, later on, when deposits were sought back, various reasons were advanced to kill time. That, like applicant, another person namely, Naresh Mohta was also duped and cheated and he too had instituted proceedings against respondents.

12. It is specific case of the revisionist that, for the act of respondents in luring and attracting deposits under the garb of scheme and amassing huge amounts without intention to fulfill the promise of paying interest or returns, provisions of the MPID Act are attracted. That, there is also cheating since inception with dishonest intention, coupled with criminal breach of trust and misappropriation

of his hard earned money and as such, provisions of Penal Code also get gravitated.

13. According to him, learned trial court failed to consider and appreciate the above averments in the complaint/Misc. Criminal Application. There was utter disregard to the nature and gravity of accusations and merely by defining the phrases like “deposits” and “financial establishments”, without touching the actual allegations as well as case law relied, cryptic order has been passed. For above reasons, prayers are raised for setting aside the impugned order and directing the non applicant no.1 to register offence as prayed by the applicant.

14. In answer to above, learned counsel for the respondent, while supporting rejection of the prayer for exercise of powers under Section 156(3) of Cr.P.C., submitted that averments in the complaint clearly show that, whatever transaction had taken place in between revisionist and respondents, was pertaining to sale of land and nothing beyond. That, there is nothing in support of contention or averment about attracting any deposits or investments with any assurance of huge or double returns. He would point out that, there is not a single paper in black and white to demonstrate money having

changed hand, nor there are any receipts of any payment. According to him, even there is no document suggesting floating of any scheme and the same being introduced to revisionist or his family members. It is also his submission that, contention of revisionist that respondent no.5 is a private limited company, also has no supportive document. Whatever transactions took place, are purely civil in nature and therefore, criminal proceedings do not stand. He further emphasized that, in view of definition of “deposits” and “Financial Establishments” provided under the MPID Act, the accusations do not attract provisions of MPID Act. That, learned trial court has correctly appreciated the factual as well as legal position and, according to him, has committed no error in refusing to invoke powers under Section 156(3) of Cr.P.C. and has rightly rejected the application.

15. It is emerging that, in the backdrop of order of Hon’ble High Court dated 30.06.2023 in Criminal Writ Petition No. 389 of 2022, present revisionist had knocked the doors of learned Additional Sessions Judge for seeking directions to investigate his complaint by invoking Section 156(3) Cr.P.C., i.e. vide Criminal Mis. Application No. 308/2023. Statement is also made across the bar that, said court was In-charge Additional Sessions Judge, holding charge of cases pertaining to MPID Act.

16. The relevant portion of the order passed in the Criminal Misc. Application No. 308/2023, of which present revision is an off-shoot, for proper comprehension is reproduced as under :

“7. Heard. From the copies of documents annexed to the application it seems that the transactions were made initially in 2009 subsequently in 2011, later on in 2012. According to the applicant after 2013 non applicants have given assurances to complete the transactions. The transactions are in respect of properties situated at Shahpur, Tal. Arvi, Dist- Wardha and at Muktainagar, Dist- Jalgaon.

Applicant relied upon judgments as under -

- 1) Nagpur Steel Alloys & Pvt. Ltd. Vs. P. Radhakrishna 1997 Supreme Court cases (Cri) 1073*
- 2) M/s. MEDCHL Chemicals and Pharma Vs. M/s. Biological E. Ltd. and others (Indian Kanoon) - HTP*
- 3) XYZ Vs. State of M.P. and Ors. AIROnline 2022 Supreme Court 1262*
- 4) Krushnakant Chhaganlalji Chandak and Ors. Vs. Through State Crime Investigation Department Nagpur*
- 5) Som Nath Puri Vs. State of Rajasthan AIR 1972 Supreme Court 1490*
- 6) Mohd. Yousuf Vs. Smt. Afaq Jahan and another AIR 2006 Supreme Court 705*

7) *Dhrupadabai Wd/o. Ananda Labde Vs. State Of Maharashtra [2000 (2) Mh.L.J. 748]*

8) *Nandkishor Vs. State of Maharashtra 2000(3) Crimes 368*

8. *I have gone through the reported judgments (Supra). On perusal of reported judgments I have to mention that the facts in present case and the facts in the cases of reported judgments are different. Therefore, the law laid down in the reported judgments cannot be said applicable to the present application.*

9. *It seems that application is filed before this court, being Special Court in respect of offence under M.P.I.D. Act. To attract Section 3 of the M.P.I.D. Act it is necessary that non applicant should be the financial establishment. Section 2(d) of the Act the defines "Financial Establishment". As per said definition- "Financial Establishment" means any person accepting deposit under any scheme or arrangement or in any other manner but does not include a corporation or a co-operative society owned or controlled by any State Government or the Central Government or a banking company defined under clause (c) of section 5 of the Banking Regulation Act, 1949.*

Section 2(c) as defines the term deposit. As per said definition "deposit" includes and shall be deemed always to have included any receipt of money or acceptance of any valuable commodity by any Financial

Establishment to be returned after a specified period or otherwise, either in cash or in kind or in the form of a specified service with or without any benefit in the form of interest, bonus, profit or in any other form.

10. The definition further says that the receipt of money towards security deposit, dealership deposit, earnest money, advances against or for goods or services are not the deposits. The copies of transactions are reflecting that all the transactions are mostly in the form of agreement of sale. The transaction in respect of Muktainagar property is sale transaction. Thus prima facie it appears that non applicants are not the financial establishment and the amounts paid to non applicants if any cannot be termed as deposits as defined under the said Act. Hence, application is not maintainable before this court. If at all applicant feels that he is deceived by the non applicants and transaction has occurred within the jurisdiction of Jalgaon District at Muktainagar applicant is at liberty to make appropriate application before the magistrate having jurisdiction. Hence, I pass following order.

ORDER

Application is rejected.”

17. Fundamental prayer of revisionist is to direct registration of crime and further conduct investigation by invoking Section 156(3) of Cr.P.C. The said provision reads as under :

“156. Police officer's power to investigate cognizable case.-

(1) ...

(2) ...

(3) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.

[Maharashtra]. - In its application to the State of Maharashtra, in Section 156, after sub-section (3), add the following proviso, namely:-

Provided that, no Magistrate shall order an investigation under this section against a person who is or was a public servant as defined under any other law for the time being in force, in respect of the act done by such public servant while acting or purporting to act in the discharge of his official duties, except with the previous sanction under section 197 of the Code of Criminal Procedure, 1973 (2 of 1974) or under any law for the time being in force:

Provided further that, the sanctioning authority shall take a decision within a period of ninety days from the date of the receipt of the proposal for sanction and in case the sanctioning authority fails to take the decision within the said stipulated period of ninety days, the sanction shall be deemed to have been accorded by the sanctioning authority.-

Maharashtra Act 33 of 2016, section 2.”

18. Way back in the year 1976, in ***Devarapalli Lakshminarayana Reddy and others v/s V. Narayan Reddy and others*** [reported in (1976) 3 SCC 252], while distinguishing the powers of Magistrate under Section 156(3) and 200 of Cr.P.C., the Hon'ble Apex Court held as under :

"It is well settled that when a Magistrate receives a complaint, he is not bound to take cognizance if the facts alleged in the complaint, disclose the commission of an offence. This is clear from the use of the words "may take cognizance" which in the context in which they occur cannot be equated with "must take cognizance". The word "may" gives a discretion to the Magistrate in the matter. If on a reading of the complaint he finds that the allegations therein disclose a cognizable offence and the forwarding of the complaint to the police for investigation under Section 156 (3) will be conducive to justice and save the valuable time of the Magistrate from being wasted in enquiring into a matter which was primarily the duty of the police to investigate, he will be justified in adopting that course as an alternative to taking cognizance of the offence, himself.

This raises the incidental question: What is meant by "taking cognizance of an offence" by a Magistrate within the contemplation of Section 190? This expression has not been defined in the Code. But from the scheme of the Code, the content and marginal heading of Section 190 and the caption of Chapter XIV under which Sections 190 to

199 occur, it is clear that a case can be said to be instituted in a court only when the Court takes cognizance of the offence alleged therein. The ways in which such cognizance can be taken are set out in clauses (a), (b) and (c) of Section 190(1). Whether the Magistrate has or has not taken cognizance of the offence will depend on the circumstances of the particular case including the mode in which the case is sought to be instituted, and the nature of the preliminary action, if any, taken by the Magistrate. Broadly speaking, when on receiving a complaint, the Magistrate applies his mind for the purposes of proceeding under Section 200 and the succeeding sections in Chapter XV of the Code of 1973, he is said to have taken cognizance of the offence within the meaning of Section 190(1)(a). If, instead of proceeding under Chapter XV, he has, in the judicial exercise of his discretion, taken action of some other kind, such as issuing a search warrant for the purpose of investigation, or ordering investigation by the police under Section 156(3), he cannot be said to have taken cognizance of any offence.

Section 156 (3) occurs in Chapter XII, under the caption: "Information to the Police and their powers to investigate"; while Section 202 is in Chapter XV which bears the heading: "Of complaints to Magistrates". The power to order police investigation under Section 156 (3) is different from the power to direct investigation conferred by Section 202(1). The two operate in distinct spheres at different stages. The first is exercisable at the pre-

cognizance stage, the second at the post-cognizance stage when the Magistrate is in seisin of the case. That is to say in the case of a complaint regarding the commission of a cognizable offence, the power under Section 156(3) can be invoked by the Magistrate before he takes cognizance of the offence under Section 190(1) (a). But if he once takes such cognizance and embarks upon the procedure embodied in Chapter XV, he is not competent to switch back to the pre-cognizance stage and avail of Section 156(3). It may be noted further that an order made under sub-section (3) of Section 156, is in the nature of a peremptory reminder or intimation to the police to exercise their plenary powers of investigation under Section 156(1). Such an investigation embraces the entire continuous process which begins with the collection of evidence under Section 156 and ends with a report or charge-sheet under Section 173. On the other hand, Section 202 comes in at a stage when some evidence has been collected by the Magistrate in proceedings under Chapter XV, but the same is deemed insufficient to take a decision as to the next step in the prescribed procedure. In such a situation, the Magistrate is empowered under Section 202 to direct, within the limits circumscribed by that section an investigation "for the purpose of deciding whether or not there is sufficient ground for proceeding". Thus the object of an investigation under Section 202 is not to initiate a fresh case on police report but to assist the Magistrate in completing proceedings already instituted upon a complaint before him."

19. The Hon'ble Apex Court has enunciated the scope and power of Magistrate to direct registration of FIR under Section 156(3) Cr.P.C. in the case of ***Mohd. Yusuf v. Smt. Afaq Jahan and another*** (2006) 1 SCC 627, by observing in para 11 as under :

“11. The clear position therefore is, that any Judicial Magistrate before taking cognizance of the offence, can order investigation under Section 156(3) of the Code. If he does so, he is not to examine the complainant on oath because he was not taking cognizance of any offence therein. For the purpose of enabling the police to start investigation, it is open to the Magistrate to direct the police to register an FIR. There is nothing illegal in doing so. After all registration of FIR involves only process of entering the substance of the information relating to the commission of the cognizable offence in a book kept by officer in charge of police station as indicated in Section 154 of the Code. Even if a Magistrate does not say in so many words while directing investigation under Section 156(3) of the Code, that FIR should be registered, it is the duty of the office in-charge of the police station to register the FIR regarding cognizable offence disclosed by complainant because that police officer could take further steps contemplated in Chapter XII of the Code only thereafter.”

20. In the case of *Mona Panwar v. High Court of Judicature of Allahabad through its Registrar and others*, (2011) 3 SCC 496, the Hon'ble Apex Court held that, when complaint is presented before a Magistrate, he has two options. One is to pass an order as contemplated under Section 156(3) Cr.P.C. The second one is to direct examination of complainant on oath and the witnesses, if present, and further proceed in the manner provided under Section 202 of Cr.P.C. An order under Section 156(3) is in the nature of peremptory reminder or intimation to the police to exercise its plenary power of investigation under Section 156(1) Cr.P.C.

Thus, powers under Section 156(3) are exercisable at pre-cognizance stage and in the latter, powers are exercisable at post-cognizance stage.

Other landmark cases on above aspects are *Priyanka Srivastava v. State of Uttar Pradesh* 2015 (6) SCC 287 and *Lalita Kumari* (supra).

21. Thus, what Section 156(3) Cr.P.C. contemplates is, registration of an offence on existence of material about commission of cognizable offence. Once a court is convinced or satisfied that, allegations leveled in the complaint does disclose commission of

cognizable offence, then investigation into the offence necessarily follows. Needless to say, directions under Section 156(3) are to be issued only after application of judicious mind. It is only expected of the Court exercising powers under Section 156(3) to assess whether complaint disclosed cognizable offence, and not to travel to find out whether allegations are true or substantiated. *Prima facie* satisfaction about disclosure of cognizable offence is *sine qua non* invoking powers under Section 156(3) Cr.P.C.

22. This Court has already reproduced the substance of the complaint which was before learned Additional Sessions Judge. Before this Court too, on affidavit, it has been reiterated by the revisionist that he was approached by the respondents-accused with a scheme to invest by way of deposit in return of handsome returns. Revisionist has averred in the complaint that, he is acquainted with one of the accused being close acquaintance of wife of his maternal uncle. He has specifically stated that, he made investments even by mode of cheques, and statement is made across the bar that there are bank statements of said bank transactions. He has also averred by naming the accused about they approaching him and by way of assurance, entering into agreement regarding certain land/plots, i.e. by way of security. Such contentions are admittedly not refuted or

denied by the learned counsel representing the accused before this Court, and he would merely submit that whatever transactions took place, were purely civil in nature, i.e. pertaining to land, and that there is nothing in black and white about any scheme being floated, any money being received by way of investments or deposits. For the more reason, in the light of such submissions, in the considered opinion of this Court, investigation itself becomes imperative to ascertain the veracity of above allegations, more particularly, when amounts are handed over by cash mode as well as cheques.

23. On visiting impugned judgment reproduced above, it is very much conspicuous, as is submitted before this Court, that learned court below has merely reproduced the definitions of “deposit” and “Financial Establishment” and has observed that, *prima facie* it appears that non applicants are not financial establishments and the amounts given to the non applicants, if any, cannot be termed as ‘deposits’ as defined under the Act. Accusations and allegations, does not seem to have been properly comprehended that, whatever transactions took place were between and through relatives and as such, there is trust reposed upon the respondents. Even no sound reasons are assigned for disbelieving the averments in the complaint.

24. Another prominent feature, which emerges here is that, impugned judgment only touches on the aspect of definitions of “deposit” and “Financial Establishments” under the MPID Act, and there is no reflection on the allegations of breach of trust, cheating, misappropriation, thereby attracting penal sections. Here, there are allegations of entrusting of money, which is not denied, and secondly, there is refusal to give either returns by way of interest, or even paying back the amount taken for whatever purpose.

Thus, in the considered opinion of this Court, only investigation would unearth or unveil the truth whether the amounts transferred were indeed by way of deposits and whether the land/plots were merely by way of security and were found by revisionist to be sold to third parties. As regards to handing over of cash and issuing cheques also, investigation needs to be made with said bank to ascertain the exact nature of the transaction.

25. Here, allegations are of both nature, i.e. civil as well as criminal in nature. Civil and Criminal proceedings may go simultaneously in one case, i.e. in the same set of facts, there may be civil liability as well as criminal liability. Here, it is tried to be submitted by the respondents that whatever transactions took place were of civil in nature and even learned court below seems to have observed to such

extent. However, it is anathema to suppose that when civil remedy is available, criminal prosecution is completely barred. As stated above, learned counsel for the respondents has not contradicted or controverted the aspect of money changing hands.

26. As submitted, though detailed complaint has been lodged running in several pages, no sufficient reasons are ascribed for reaching to the conclusion that, transactions are of civil in nature. The aspects of impressing upon complainant to invest with assurance to get good returns and refusing to pay the interest or making transaction of land/plots, in spite of allegations of same land/plots being already sold, the element of cheating or fraud has not been appreciated. The Hon'ble Apex Court, way back in the case of ***Union of India v. Mohal Lal Capoor***, reported in (1973) 2 SCC 836 has held that, *reasons are links between the material on which conclusions are based. It discloses how mind is applied to the subject matter for a decision. That, it reveals rational nexus between facts considered and conclusions reached.* With above nature of averments in the complaint, as there were several and complex issues, investigation was the appropriate remedy to ascertain whether there is substance in the accusations or not.

27. Again, the Hon'ble Apex Court in the very recent judgment of Anurag Bhatnagar and another v. State (NCT of Delhi) and another, reported in 2025 LiveLaw (SC) 742, while answering point (iv), held in para 45 as under :

“45. The allegations in the application moved under Section 156(3) CrPC and the material in support thereof reveals that SHL is contending breach of the conditions of MoU dated 11.03.1995 and that it has been induced and deceived by VLS for entering into the aforesaid MoU. VLS has cheated SHL and its officers by making a false promise which was legally impossible to be carried out. The allegations of breach of conditions of the MoU or of making a false promise by itself may not give rise to any criminal action as no criminality is attached to it. However, there are elements of inducement, criminal conspiracy and cheating which are also borne out from the allegations made in the application and the complaint, which if proved, may amount to commission of an offence. Therefore, once such allegations are made out, it is difficult for the court in exercise of its inherent jurisdiction to interfere with the FIR, only for the reason that some of the disputes are of civil nature which may or may not be having any criminality attached to it.”

28. To sum up, in the light of availability of material suggesting commission of cognizable offence, revisionist succeeds as this Court finds material necessitating investigation upon registration of FIR. Hence, the following order :

ORDER

- I. The Criminal Revision Application is allowed in terms of prayer clause (i).
- II. The Criminal Revision Application is accordingly disposed off.

[ABHAY S. WAGHWASE, J.]